

October 2, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

FEDERAL LEGISLATIVE UPDATE

Although Federal Fiscal Year (FFY) 2003 began yesterday, Congress has not enacted any of the 13 appropriations bills for the year. A stalemate continues over the overall level of funding available for the new year. The Administration is holding to a level of \$759 billion in discretionary funding while Democrats contend that \$768 billion is needed. Although the \$9 billion gap is relatively small, both sides remain unwilling to compromise. In addition, there are numerous disagreements over specific funding levels for many Federal departments and the programs they administer. Underlying this year's budget morass are the lack of a FFY 2003 budget resolution which would have set spending targets, and partisan politics on the eve of the November elections.

Before the August recess, the House leadership decided to withhold floor action on all FFY 2003 appropriations bills except for Defense until the Labor/Health and Human Services (HHS) bill (H.R. 5320) was adopted. House appropriators, including Appropriations Chairman Young (R-FL) have objected to that decision, arguing that the Labor/HHS bill is underfunded. Republican moderates have vowed to join the Democrats to defeat the bill unless more funds are allocated. The House Labor/HHS bill includes \$130 billion for discretionary spending as requested by the Administration, while the Senate version (S. 2766) has over \$6 billion more funding. Until an agreement is reached on how to proceed, the appropriations process will remain stalled.

Because of the budget gridlock, last week Congress adopted a short term continuing resolution (H.J. Res. 111) to fund all programs at current levels through October 4. It is expected that another continuing resolution will be enacted this week to fund programs through October 11.

This week the House and Senate are focusing their attention on a Congressional resolution on Iraq, with a final vote next week. The Senate also is expected to continue

its lengthy debate on the bill establishing a Department of Homeland Security (H.R. 5005). Next week, a decision may be reached on the rest of the schedule for the year, including whether Congress would return after the elections for a lame duck session or choose to fund all programs at current FFY 2002 levels through some time next year.

The status of most key County priorities, including restoring Medicaid Disproportionate Share Hospital (DSH) funding, remain in a state of flux, due to the tremendous uncertainty over the remaining Congressional schedule and the potential legislative vehicles available near adjournment.

AUTHORIZATION BILLS

Temporary Assistance for Needy Families (TANF): Set to expire on September 30, 2002, TANF programs were extended for three months under the continuing resolution. No Senate floor action has been scheduled on the TANF reauthorization bill approved by the Senate Finance Committee in June. A number of legislative hurdles would have to be overcome in order for a bill to be adopted this year, including a significant breakthrough on appropriations bills, quick Senate floor action on TANF, and compromises between the very different House and Senate TANF bills. Consequently, it is increasingly likely that TANF will be reauthorized in its current form for between one to three years. Health and Human Services Secretary Tommy Thompson has talked of a one-year extension while others, including the American Public Human Services Association and the National Conference of State Legislatures, are calling for a three-year extension. The current House and Senate Finance Committee bills would reauthorize TANF for five years.

Justice Department Authorization: Last week House and Senate conferees reached agreement on legislation (H.R. 2215) to reauthorize Department of Justice (DOJ) operations. The House adopted the conference report on September 26. A hold by a Senate Republican is delaying a final Senate vote on the conference report. On October 3 the Senate is expected to vote on closing debate so that a final vote can be taken on the conference report. Enactment of the bill would represent the first time that Congress enacted DOJ authorizing legislation since 1979. DOJ has been operating under year-to-year authorizations included in annual Commerce/Justice/State appropriations bills.

Besides authorizing DOJ operations, H.R. 2215 includes the following provisions of County interest:

- Authorizes such sums as may be necessary for the State Criminal Alien Assistance Program (SCAAP) in FFYs 2003 and 2004;
- Establishes a juvenile offender accountability block grant to states, authorized at \$350 million a year through FFY 2005. States would be required to pass through at least 75 percent of their allotments to local jurisdictions based on a combination of juvenile justice expenditures and the level of violent crime;
- Includes the Juvenile Justice and Delinquency Prevention Act of 2002, which replaces several categorical programs with the Juvenile Delinquency Prevention Block Grant to carry out projects aimed at preventing juvenile delinquency;
- Reauthorizes the Incentive Grants for Local Delinquency Prevention Programs Act, which funds delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the system;
- Includes language from the Drug Abuse Education, Prevention, and Treatment Act, which would authorize grants to states for jail-based substance abuse treatment programs and require them to pass through at least 10 percent of their grants to local correctional facilities, and which would authorize \$50 million in FFY 2002, \$54 million in FFY 2003, \$58 million in FFY 2004, and \$60 million in FFY 2005 in grants for drug courts;
- Amends the Paul Coverdell Forensic Sciences Act to enable local governments to receive direct Federal grants for forensic science laboratories;
- Amends current law to allow DOJ domestic preparedness grants to be used to construct, develop, expand, modify, operate, or improve facilities used to provide training or assistance to state and local first responders; and
- Amends current law to allow a grandparent or legal guardian to submit an application for naturalization on behalf of a child whose parent is deceased.

Health Program Reauthorization: This week the House is expected to adopt the Health Care Safety Net Improvement Act (H.R. 3450). The bill reauthorizes the Community Access Program (CAP) at \$125 million a year, which had been proposed for elimination by the Administration. CAP funds projects to strengthen the coordination

of health delivery in communities. The County received one of the first CAP awards in 2000. The bill also reauthorizes funding of \$1.3 billion in FFY 2003 for the Community Health Centers programs, and reauthorizes the National Health Service

Corps which recruits primary health care professionals to practice in underserved areas. The Senate passed a companion bill (S. 1533) by voice vote last April.

San Gabriel River Watersheds Study: On September 24, the House passed S. 941 (Feinstein), a bill to revise the boundaries of the Golden Gate National Recreation Area, after incorporating a number of other provisions affecting California, including bill language from H.R. 2534 (Solis), the San Gabriel River Watersheds Study Act. This Act would direct the Department of the Interior to conduct a resource study of the San Gabriel River and Mountains, which shall include consideration of regional flood control and drainage needs and publicly owned infrastructure. The study is due to Congress within three years after funds are made available for the study.

Pursuit of County Positions on Legislation

Yesterday, Senate Finance Committee Chairman Baucus (D-MT) and Senator Grassley (R-IA), the Committee's ranking minority member, introduced a Medicare/Medicaid "giveback" bill (S. 3018) which includes the following health-related provisions that the County's Washington advocates are supporting based on policies included in the Federal Agenda adopted by your Board on February 5, 2002:

Medicaid Disproportionate Share Hospital (DSH) Payments: Medicaid DSH allotments to states in FFYs 2003, 2004, and 2005 would be kept at the FFY 2002 level plus annual inflationary increases at an estimated cost of \$2.9 billion. Under current law, DSH allotments would be reduced beginning in FFY 2003, resulting in an estimated loss of about \$184 million to California in FFY 2003. Washington Advocate Susan White reports that there is growing bipartisan support in both houses to prevent this major cut in DSH funding and that the FFY 2003 continuing resolution is another potential legislative vehicle for increasing DSH funding. Representatives Dreier and Farr circulated the attached California Congressional delegation letter to House Speaker Hastert and House Minority Leader Gephardt on the importance of the Medicaid DSH program. The entire California delegation, except for Representative Thomas, signed the letter.

State Fiscal Relief: The package would provide \$5 billion in fiscal relief to states in FFY 2003 of which \$4 billion would be in the form of a temporary increase in the Federal Medical Assistance Percentage (FMAP), which is the Federal match rate used in the Medicaid and Title IV-E Foster Care programs. For California, the bill would maintain the State's FMAP in FFY 2003 at 51.4 percent, the same as in FFY 2002.

Under current law, the State's FMAP would be 50.0 percent in FFY 2003. The bill provides that the temporary FMAP increase will apply only to Medicaid assistance payments, excluding Medicaid DSH and Title IV-E payments, in states which do not make Medicaid eligibility more restrictive than as of January 1, 2002. The Federal

Funds Information for States estimates that California would receive \$346.2 million in additional Medicaid funds in FFY 2003 from the FMAP increase. The other \$1 billion in state fiscal relief would be in the form of increased Title XX Social Services Block Grant funds. Instead of using the statutory formula, which allots Title XX funds based on population, S. 3018 specifies how much funding each state will receive. California would receive \$100.8 million in increased Title XX funds rather than the \$120 million that it would receive if the \$1 billion were allotted based on population.

State Children's Health Insurance Program (SCHIP): The bill amends current law in a manner which would allow California to retain a portion of its unspent SCHIP (Healthy Families) funds which otherwise would be reallocated to other states because the State has not spent its annual allotment within three years. It would allow states to retain at least 40 percent of its unspent FFYs 2000 and 2001 allotments, 30 percent of its unspent FFY 2002 allotment, and 20 percent of its unspent FFY 2003 allotment for one year beyond the three-year time limit. California did not spend any of its FFY 2000 SCHIP allotment of \$765.5 million by the end of FFY 2002. The bill would allow the State to retain 40 percent (\$306.2 million) of that amount through the end of FFY 2003.

S. 3018 also would allow states to keep any unspent FFYs 1998 or 1999 SCHIP funds through the end of FFY 2003. We understand that California has about \$10 million in unspent FFY 1999 SCHIP funds that it otherwise would lose under current law. It is noteworthy that, if the bill is enacted, California will have a total of \$2.1 billion in SCHIP funds available for use in FFY 2003 of which \$1.02 billion must be spent by September 30, 2003. Allowing California more time to spend its prior years' allotments is of major importance as most of the State's SCHIP allotments are likely to continue to go unspent given the State budget deficit. The State has delayed implementation of its Healthy Families parental coverage expansion to avoid having to pay increased State matching funds. SCHIP has a 35 percent match requirement.

Reimbursement of Undocumented Alien Emergency Health Costs: The bill appropriates \$48 million a year for FFY 2003 and 2004 to reimburse undocumented alien emergency health costs in heavily impacted states:

- \$32 million a year would be allotted based on the Immigration and Naturalization Service's (INS) estimate of the number of undocumented aliens in the 17 states with the highest number of undocumented aliens. Based on the latest INS estimate, California would receive nearly \$14 million of this amount; and
- \$16 million would be allotted based on the number of undocumented aliens apprehended by the INS in the six states with the highest number of apprehensions in the most recent four quarters. Based on the latest published apprehension data, which was for FFY 2000, California's share would be \$3.9 million.

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From an eligible state's allotments, the Secretary of Health and Human Services (HHS) is to make direct payments to state and local governments, hospitals, or other providers to reimburse them for their uncompensated emergency health costs on undocumented aliens that they "demonstrate were incurred" during the fiscal year. The bill is silent on the standards to be used to "demonstrate" eligible costs and on how HHS is to allot funds within states when eligible costs far exceed available funds.

California and the County would disproportionately benefit from any Federal funding to reimburse undocumented alien emergency health costs. Besides supporting such funding, the County's Washington advocates will pursue language to ensure that the methodology used to reimburse costs is equitable and not administratively burdensome and costly to implement.

We will continue to keep you advised of any new developments.

DEJ:GK
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Attachment

c: Executive Officer, Board of Supervisors
County Counsel
All Department Heads
Legislative Strategist